THE
AMERICAN LAW REGISTER

FOUNDED 1852.

UNIVERSITY OF PENNSYLVANIA

DEPARTMENT OF LAW

SUBSCRIPTION PRICE, $3.00 PER ANNUM. SINGLE COPIES, 35 CENTS.

Published Monthly for the Department of Law by PAUL D. I. MAIER, at 115 South Sixth Street, Philadelphia, Pa. Address all literary communications to the EDITOR-IN-CHIEF; all business communications to the TREASURER.

IN MEMORIAM.

WILLIAM H. CARSON.

In the sad and untimely death of Mr. William H. Carson, who met his fate at the hands of an assassin at Belmar, N. J., on August 13th last, we lose one of the most promising members of the junior bar and a man whose character stood for everything that was good and noble. We not only feel his great loss as a valuable contributor to this magazine and as a teacher, but as a man who had the interests of the University at heart and as one of the staunchest friends of the Law Department.

After graduating from the Academic Department of John Hopkins University, Mr. Carson pursued a course of law at Harvard,

from which institution he was graduated with high honors. He then associated himself with the Hon. Edward A. Armstrong, and subsequently was appointed to fill the office of Assistant Prosecutor of the Pleas of Camden County, New Jersey, which office he filled with great tact and intelligence until his death.

Mr. Carson's connection with the Law Department of the University of Pennsylvania began two years ago, when he was appointed a lecturer on law. Since then he has conducted a very successful course on the "Law of Carriers." He was a bright and intelligent man, with much ability and a most promising public career before him. He took a very conspicuous part in all reform movements, and during his incumbency as Assistant Prosecutor, was instrumental in bringing about the conviction of many violators of the law.

His loss is deeply felt by his many friends and brothers in the legal profession, not only in the community in which he lived, but in Philadelphia as well.

CONSTITUTIONALITY OF STATE STATUTE IMPOSING AN ATTORNEY'S FEE AS A POLICE REGULATION; FOURTEENTH AMENDMENT. The Supreme Court of the United States in the case of *Atchison, &c., Ry.* v. *Matthews*, 19 Sup. Ct. Rep. 608 (April 17, 1899), affirmed the constitutionality of a statute of Kansas (Sess. Laws, 1885, p. 258, c. 155, §§ 1, 2), requiring a reasonable attorney's fee for the plaintiff to be allowed against a railroad company for damages from fire caused by the operating of its trains, and also changed the rules of evidence in favor of the plaintiff in such a case, so that mere proof of damage should be *prima facie* evidence of negligence against the railroad in such cases. The statute made no provision for recovery by the railroad of a reasonable attorney's fee in case it won the suit. It was argued that this was class legislation inasmuch as railroads were singled out and alone made subject to such penalties, and, moreover, were denied equality before the law, since in such a suit, it might in any case lose, but in no case recover an attorney's fee. The majority of the court in sustaining the validity of the statute pointed out the two classes of cases in which such regulations had been attempted; one being where the imposition was in the nature of a penalty for not paying a debt, and the other where it was in the nature of a police regulation. In the former it would not be sustained, while in the latter it would be. They then decided that this statute was a police regulation, in view of the great danger from fire in a state like Kansas, and the necessity of enforcing the utmost precautions to guard against it. They meet the argument that the statute conflicts with the Fourteenth Amendment by pointing out that the amendment does not forbid classification, and cite numerous cases to show that the Supreme Court has upheld classifications so long as they were not arbitrary. One of the most recent cases of importance of this kind is *Magoun* v. *Bank*, 170 U. S. 283 (April 25, 1898), upholding a classifica-